IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

WP(C).No. 1819 of 2007(N)

PETITIONER:

SHIBU P.N., S/O. NARAYANAN,
AGED 42 YEARS, RESIDING AT PUZHAMANGALAM,
ELAMKULAM, THEVARA, ERNAKULAM, KERALA.

BY ADV. SRI.P.SATHISAN

RESPONDENTS:

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1. SPECIAL DEPUTY TAHSILDAR (R.R.),
KSFE LTD., ERNAKULAM.

2. DISTRICT COLLECTOR,
ERNAKULAM.

3. SECRETARY (REVENUE DEPARTMENT),
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM.

4. KSFE LTD., REPRESENTED BY
ITS MANAGER, ERNAKULAM.

BY ADV. SRI.S.D.ASOKAN
SRI.M.L.SAJEEVAN, SC, KSFE LTD.
ADV. SMT.M.K.PUSHPALATHA, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 1819/2007

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE DEMAND NOTICE UNDER SECTION 7 ISSUED BY SPECIAL DEPUTY TAHSILDAR (RR) K.S.F.E. LTD., ERNAKULAM TO THE PETITIONER DATED 21/8/2006.

P2 : COPY OF THE DEMAND NOTICE UNDER SECTION 7 ISSUED BY SPECIAL DEPUTY TAHSILDAR (RR), KSFE LTD., ERNAKULAM TO THE GUARANTOR DATED 21/8/2006.

P3 : COPY OF THE ORDER ISSUED BY ADDL. PRIVATE SECRETARY TO MINISTER (REVENUE), TRIVANDRUM DATED 10/10/2006.

P4 : COPY OF THE RECEIPT ISSUED BY 1ST RESPONDENT DATED 15/11/2006.

P5 : COPY OF THE SALARY RECEIPT FOR THE MONTH OF SEPTEMBER, 2006 AND OCTOBER 2006 ISSUED TO THE GUARANTOR.

P6 : COPY OF THE SLARY RECEIPT FOR THE MONTH OF NOVEMBER 2006 & DECEMBER 2006 ISSUED TO THE GUARANTOR.

P7 : COPY OF THE RECEIPT FOR RS. 7,400/- ISSUED TO THE PETITIONER.

P8 : COPY OF DEMAND NOTICE ISSUED BY 1ST RESPONDENT DATED 09/01/2007.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 1819 of 2007

Dated, this the 8th day of August, 2007

J U D G M E N T

Heard learned counsel for the petitioner, learned Government Pleader and the learned Standing Counsel for the KSFE. The petitioner who is in arrears of debt due to KSFE, approached the Government and Government vide Ext.P3 order dated 10/10/2006, granted instalment facility to the petitioner to clear the arrears. The petitioner committed default and therefore, recovery is continued, against which this writ petition is filed. In the counter statement filed by the KSFE, it is conceded that petitioner has paid Rs. 30,000/- in terms of interim order of this Court. Further recoveries have been made and some amount has been recovered from one of the sureties. After crediting the recovered amount, the balance amount to be paid with normal rate of interest @ 13.5% is stated to be Rs. 94,876/-. In the reply statement, petitioner has stated that the amount of Rs. 5,000/- recovered from the guarantor Shri.P.K.Rajan during January and February 2007 is not reckoned in the counter statement. The prayer is only for instalment facility. This writ petition is, accordingly, disposed of granting one more

opportunity to the petitioner to clear the balance arrears of Rs. 94,876/- exclusive of collection charges in twenty equal monthly instalments, first of which will be paid on or before 10/09/2007 and balance on or before 10th day of the nineteen succeeding months. There will be direction to the KSFE to verify the recovery made in January and February, 2007, from Mr. P.K.Rajan, give credit for the same and recover only the balance from the petitioner. If petitioner makes payment voluntarily without default as above, KSFE will charge interest only @ 13.5% and no collection charges should be recovered from the petitioner. RR proceedings will be kept in abeyance for payment as above. However, if petitioner commits default in making payment of any of the instalments as above, the instalment facility granted will stand automatically vacated on first default and respondents can proceed to recover the arrears from the petitioner and from the guarantors through attachment of salary or otherwise, and in that event collection charges also can be recovered.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

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